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*Attorneys for Plaintiffs Capana Swiss Advisors AG and  
AmeriMark Automotive AG, and Third-Party Defendants  
Shaen Bernhardt, Martin Fasser Heeg, and Stefan Kammerlander*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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CAPANA SWISS ADVISORS AG, a Swiss  
corporation; AMERIMARK AUTOMOTIVE  
AG, a Swiss corporation,

Plaintiffs,

v.

RYMARK, INC., a Utah corporation;  
NICHOLAS THAYNE MARKOSIAN, an  
individual; JOHN KIRKLAND, an individual;  
and VICKY SMALL, an individual,

Defendants.

**DECLARATION OF SARAH E.  
DIAMOND IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION FOR  
LIMITED EXTENSION OF FACT  
DISCOVERY [ECF NO. 219]**

Civil Case No. 2:23-cv-00467  
Judge: Hon. Ted Stewart  
Magistrate Judge: Hon. Cecilia M. Romero

**DECLARATION OF SARAH E. DIAMOND**

I, Sarah E. Diamond, declare as follows:

1. I am an attorney in the law firm of Venable, LLP, and I am admitted *pro hac vice* in this Court. I am among the counsel of record for Plaintiffs Capana Swiss Advisors, AG (“Capana”), and AmeriMark Automotive AG (“Automotive”), and Third-Party Defendants Shaen Bernhardt, Martin Fasser Heeg, Stefan Kammerlander, and AmeriMark Group AG (“AM Group”) (collectively, “Plaintiffs”) in the above-referenced litigation. This declaration is submitted in support of Plaintiffs’ Opposition to Defendants’ Motion Limited Extension of Fact Discovery [ECF NO. 219]. I have personal knowledge of the facts set forth in this declaration. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of a document signed by Nicholas Markosian (“Markosian”) and scanned at a Markosian Automotive scanner, bates stamped RYMARK071390-71407 and marked as Exhibit 38 at the August 8, 2024 deposition of Markosian.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the April 1, 2016 Listing Agreement signed by Markosian and Ashley Miron Leshem (“Leshem”), bates stamped PL\_0000000003-9, and attached as Exhibit 2 to Plaintiffs’ Verified Amended Complaint (ECF No. 16-2).

4. Attached hereto as **Exhibit 3** is a true and correct copy of the February 2018 Reverse Merger Agreement signed by Markosian, bates stamped Hesterman0000854-854\_0011.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the January 14, 2025 email from counsel for Defendants Stephen Richards.

6. I have conferred with Venable's IT team and confirmed that to date, 1,577 emails from, to, or cc to Leshem have been produced, including 846 that were produced by Plaintiffs, 416 that were produced by Defendants, and 292 that were produced by Hesterman.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 22nd day of January, 2025.

/s/ Sarah Diamond  
Sarah Diamond

**CERTIFICATE OF SERVICE**

I hereby certify that on January 22, 2025, I filed the foregoing with the Clerk of Court using the Court's CM/ECF filing system and which sent electronic notification of the filing to counsel of record in this matter.

/s/ Hannah Ector  
Hannah Ector